

REMARKS

Reconsideration of all grounds of rejection, and allowance of the pending claims are respectfully requested in light of the following remarks. Claims 3, 4 and 12-35 remain pending herein.

In the Office Action, Claims 3, 4 and 12-35 have been rejected under 35 USC §102(e) based upon Wizig U.S. Patent No. 6,735,569 (hereinafter "the Wizig '569 Patent"). The earliest effective U.S. filing date of the Wizig '569 Patent is November 4, 1999.

As shown in the enclosed Affidavit of Shane Hopkins and Declaration of Eddy H. Kimura, the inventors in this case, Messrs. Kimura and Hopkins, had conceived the present invention in the United States prior to November 4, 1999 and thereafter diligently reduced same to practice by filing U.S. Provisional Patent Application No. 60/170,013 on December 10, 1999, the priority of which is claimed by the present application. More particularly, during the period immediately preceding the filing date of the Wizig '569 Patent (i.e., November 4, 1999) and ending on December 10, 1999 (see MPEP §715.07(a)), the inventors exercised diligence to reduce the invention to practice as evidenced by the enclosed Affidavit and Declaration. In such circumstances, it is respectfully submitted that the Wizig '569 Patent does not qualify as a prior art reference against the present invention and that its removal as prior art successfully obviates all bases of the Examiner's outstanding rejection contained in the Office Action. Accordingly, all of the pending claims are believed to be in condition for allowance. In this regard, applicants' attorney notes that the date in Exhibit B attached

Appln. No. 09/595,114
Response dated December 9, 2004
Reply to Office Action mailed June 9, 2004


to the enclosed Affidavit and Declaration has been redacted as provided in MPEP §715.07.

Based upon the foregoing comments, applicants respectfully request reconsideration and allowance of all of the pending claims (i.e., Claims 3, 4, and 12-35). Should there remain any questions or other matters whose resolution could be advanced by a telephone call, the Examiner is cordially invited to contact applicants' undersigned attorney at his number below.

It is believed that no fees are attributable to this Response other than a fee for the three month extension of time. Should there be any fees required as a result of this Response, the Examiner is authorized to charge them to Deposit Account No. 501402.

Respectfully Submitted,

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Enclosures: Affidavit of Shane Hopkins under 37 C.F.R § 1.131
Declaration of Eddy H. Kimura under 37 C.F.R § 1.131
Petition for Extension Of Time Under 37 C.F.R. 1.136(a)
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